

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

VERBATIM REPORT.

SIXTH MEETING OF THE TARIFF AGREEMENT COMMITTEE
HELD ON THURSDAY, 28 AUGUST 1947, AT 2.30 P.M.
IN THE PALAIS DES NATIONS, GENEVA.

Hon. L. D. WILGROSS (Chairman) (Canada)

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CHAIRMAN: The Meeting is called to order.

We shall resume the discussion on point 5 of our Agenda, which is Inclusion in the Agreement of the Articles of the Charter which are reproduced in Part II.

The Delegate of Canada.

Mr. L.E. COUILLARD (Canada): Mr. Chairman, the Canadian Delegation has refrained from any general statement up to this point. I feel that I must set before the Committee the position of the Canadian Delegation regarding points 5 and 6.

We share the view of the United States, Netherlands and Belgian Delegations, as set out in the document before us on page 9, namely, that Part II of the General Agreement on Tariffs and Trade forms an essential part of that Agreement. We consider as essential the inclusion in the General Agreement of those Articles recommended by the Tariff Negotiations Working Party. We also consider that those Articles should be taken from the Draft Charter as approved at this Second Session.

It has been the understanding of the Canadian Delegation, Mr. Chairman, from the very beginning of our tariff negotiations here, that those Articles of the Draft Charter, as outlined in the Drafting Committee's Report and which deal specifically with trade and tariffs, must be an integral part of the General Agreement. It is on that assumption that we have conducted our tariff negotiations here. If that assumption should now prove to have been wrong, then we shall have to reconsider our position. But I find it difficult to see how Part II of the General Agreement could logically be discarded.

It is inconceivable that any country - or, to be more specific, let us say Canada, which will have made some

eight hundred tariff concessions as a result of our negotiations here — it is inconceivable, I maintain, that we should be expected to be satisfied with a few weak General Articles, or, indeed, no Articles at all, as a safeguard for those tariff concessions which we have received in return for eight hundred or more concessions. We would not expect any other country to be satisfied with a few General Articles as a safeguard to them for the tariff concessions which Canada will grant those other countries. Nor do we consider, Mr. Chairman, that Schedules of tariff concessions by themselves have any significant value, unless they are supplemented, reinforced and safeguarded by the rules and regulations governing falling trade which Part II of the General Agreement attempts to set down.

I should not like to unnecessarily labour that point, but it goes without saying, I think, that our work here certainly has served to establish the fact that tariff concessions are of little value, if not altogether valueless, if no provision is made on such matters as valuation for customs purposes; formalities connected with importation and exportation; internal taxation; quantitative restrictions; exchange arrangements, State-trading, etc.

Moreover, we consider that it would be a backward step in the regulating of international commercial relations to discard the rules and regulations set down in Part II, because the great majority of them already form, in greater or lesser degree, part of existing bilateral trade agreements which we — and I would say most other countries here — now have. In fact, if you consider the subject matter of Part II, you will find that the great majority of those matters, if not all of them, are covered in varying degrees in existing bilateral Most-Favoured-Nation

agreements. This applies in our case at least to Part II, Articles III, IV, VI, VII, VIII, IX, X, XII, XIII, XIV, XVI, XVIII, XIX, XX and XXI, to varying degrees, as I have said.

The United States/Canada Agreement of 1938, for example (which, I must say, does not contain all the provisions which are found in some of our subsequent Most-Favoured-Nation Agreements with other countries) does, nevertheless, contain perhaps 85% to 90% of the provisions now contained in Part II. Moreover, Part II is meant as provisions to a multilateral and not simply to a bilateral Most-Favoured-Nation Agreement.

The need for detailed rules and regulations to supplement the Tariff Schedules is nothing new, and if I may be permitted to draw on economic history, I think it is well illustrated in the historical development of the Most-Favoured-Nation type of agreement.

Not so many years ago, a single Article providing for Most-Favoured-Nation treatment was deemed sufficient in Most-Favoured-Nation Agreements. As time went on, and as countries in a world of growing economic ingenuity and nationalism realized the need for additional safeguards for tariff concessions which they had obtained, Most-Favoured-Nation Agreements, as a result, became longer and more complex - more detailed - until we now have the type of multilateral Most-Favoured-Nation Agreement which we propose in the General Agreement on Tariffs and Trade.

We fully realize that it would be most desirable if international commercial relations had reached the stage where a few short pious Articles would be sufficient; but unfortunately this is not the case, and force of circumstance might not permit such a procedure even if sufficient co-operation did exist.

The argument was advanced yesterday that the inclusion of Part II in a General Agreement would act as a deterrent to the establishment of the full I.T.O. Charter. But as we have pointed out, Part II is but a section taken from the Charter and represents essential rules and regulations which already exist in large measure in present bilateral agreements. If the existing multitude of, generally speaking, undesirable bilateral arrangements, barter arrangements, payments agreements, etc. did not seemingly act as a deterrent to nations to meet, as we are doing, to formulate an I.T.O. Charter, I cannot see how an agreement which incorporates some of the actual Articles of the Draft Charter can possibly be a deterrent. I would submit that it is precisely because of the realization of that fact that we have been working for the past two years at designing some sort of law to regulate the world's economic relations. Part II specifically will be an attempt to regulate such relations in the fields of trade and tariffs on a multilateral basis.

The Tariff Negotiations Working Party, in addition, has spent many meetings on Part II. The Articles themselves represent even more study, discussion and compromise during eight of the last twelve months. If it is hoped, therefore, that a few Articles in Part II, or no Articles at all, would be sufficient, then we have been wasting a lot of time in vain.

These are some of the reasons, Mr. Chairman, -no doubt there are others - why we consider the inclusion of Part II as essential. Now, on point 6 of our Agenda: there is a provision for the replacement of Part II of the General Agreement by the relevant provisions of the Charter. This gives me the opportunity to state the Canadian position on point 6, that is, the effect on the General Agreement which the entry into force of the Charter will have. As you have said, these two points are closely related, and some of the reasons which I have just advanced for the inclusion of Part II, also apply to this question.

We consider that a two-thirds majority of the contracting parties, as is now provided for in Article XXVII (1), is a fair and liberal requirement. The signature and acceptance of the text and Schedules of the General Agreement is, of course, on the basis of individual countries, that is, countries accept or reject individually and independently. It is proper, therefore, that at least a two-thirds majority of signatories should agree to what might be substantial changes in the text after Havana.

I would also point out that under Article XXVII of the General Agreement a two-thirds majority is required. There is also the additional provision that a Member may withdraw from the Agreement. I fail to see, therefore, Mr. Chairman, why a different majority - or, indeed, no majority at all but simply an automatic supersession - can be applied in the case of Part II of the General Agreement, particularly when there is no provision for withdrawal by any of the countries in a minority opposed to the supersession.

As we have said before, we have always considered the text and the Tariff Schedules of the General Agreement as a whole. We negotiated ^{negotiated} and are now negotiating, tariff concessions on that basis. Any change in Part II of the Agreement as a result of a change in the Charter Articles at Havana might seriously throw out of balance and make unacceptable to us the General Agreement as a whole.

As it now stands, Canada is ready and willing to conform to the suggested time-table which we discussed yesterday, and to sign the provisional entry into force protocol which was suggested by the United States Delegation yesterday. If the automatic supersession were accepted, we feel, in effect, that we would be signing the proverbial blank cheque by agreeing blindly and in advance to the replacement of Part II by what might be provisions different from

those on the basis of which Canada has negotiated, and is willing to grant, some eight hundred tariff concessions.

Thank you, Mr. Chairman.

CHAIRMAN: The Delegate for the United States.

MR. W. BROWN (United States): Mr. Chairman, we are considering here a Trade Agreement under which all of us in this room will make to each other substantial tariff concessions, and the question that we have before us is: What provision is it necessary to include in that kind of an Agreement?

I think the Delegate from Canada has brought the discussion back into proper perspective. There has been some confusion before, I think, and some feeling that we are discussing a question of which provisions of the Charter should be given priority over other provisions, but we are not considering any matter of giving emphasis to one part of the Charter over another part of the Charter - we are simply considering the question of what kind of provisions we must have in the Agreement, whereby we give to each other tariff concessions.

We have always contemplated that there would be a Tariff Agreement. That was part of the plan and programme ever since the beginning of this project and, like Canada, we have negotiated here on the assumption and basis that there would be a Trade Agreement in much the same sense as we have had them in the past, except that in this case it would be multilateral rather than bilateral.

This Trade Agreement, in our opinion, should include the essential provisions which are customary in trade agreements dealing with tariffs. Actually we are not considering taking provisions out of the Charter and putting them in the Trade Agreement. The way those provisions got into the Charter in the first place is because they have been customary in trade agreements in the past. As we see it, the proposal we are making is that we should continue with that practice of having certain general basic provisions customary in trade procedure included to safeguard the tariff concessions which we give to each other.

Now what should those provisions be? Opinions may differ on that subject. From the point of view of my own Delegation, they are not very many. They are, first of all, a provision guaranteeing Most-Favoured-Nation treatment. That is an essential part of the approach which we have all made to our mutual problems here. It is a basic part of United States foreign policy and it has been in every trade agreement which we have concluded. It has also been found in a multitude of other agreements concluded between other countries.

Secondly, we feel that the provisions requiring national treatment with respect to internal taxes and regulations - the

old Article 15 of the Charter - are essential to safeguard any tariff concessions that we grant to each other, because, without that assurance, any country is quite free to withdraw with one hand what it offers with the other, by imposing discriminatory taxes which would have the effect of tariffs. Similarly, in order to protect tariff concessions, there must be provisions with respect to the use of quantitative restrictions.

I think we would all agree that to have those provisions plainly stated in the Agreement would be as desirable for the countries that wish to use them as for the countries that find their use undesirable. In the one case they set forth the rules which limit the use of quantitative restrictions and on the other hand they make clear the cases in which their use is considered legitimate and proper.

We think also that the operation of the provisions on State trading, which provide for non-discriminatory operation of State monopolies, is an essential for the Agreement.

There are one or two others, like the provisions for consultation, for general standard exceptions, and so forth, but for our part we would be content if the General Agreement included those basic provisions. The inclusion of those provisions is absolutely essential, if the United States is to make any tariff concessions.

We do not believe the suggestion that we might have a very short General Agreement, in which we simply mutually agreed that we would not nullify or impair the concessions that we granted, and that we would sympathetically attend to complaints by other Members, would meet the case. We will be taking drastic, substantial and costly action with respect to our tariffs, covering 75 to 80 per cent of our import trade, and before we can take that action we must have rather definite assurances in the Agreement in which that action is embodied.

I do not think that the inclusion in the General Agreement of those provisions which I have discussed could in any possible way have an adverse effect upon the adoption of the Charter. It was suggested yesterday that perhaps some countries might feel themselves so satisfied with the general provisions of the Trade Agreement that they would not feel it desirable or necessary to press for the adoption of the rest of the Charter.

I cannot imagine what countries were thought of in making that suggestion, but our own point of view, I think, has been made clear, in that our attitude towards this Charter, our desire to see this project launched and carried to a successful conclusion, has been abundantly demonstrated. During the long weeks of our negotiations here, Delegates will remember the strenuous efforts and strong persuasion used by United States representatives to secure provision in other parts of the Charter than in Chapter V of certain provisions, and I think the Delegates will realize that we would not willingly see the result of those deliberations melt away.

The second part of the subject which we are considering this afternoon is the question of whether the provisions of the General Agreement should be automatically superseded by the provisions of the Charter. We hope and believe that the provisions of the Charter, on the four or five basic subjects which I have referred to, will be satisfactory and will not be materially weaker than those which we have here recommended. We hope and believe that they will be superseded by the provisions of the Charter when the Charter is adopted. But we cannot be completely sure that that will be the case.

We share the view of the Delegate of Canada that to agree now, in advance, that automatic supersession should take place would be, in effect, signing a blank cheque. It would be signing a blank cheque in the hands of someone in whom we had good confidence, but it would still be signing a blank cheque. And it would be little comfort to be in the position that if unfortunately it should turn out that the provisions of the Charter on these basic points were not satisfactory, we could withdraw. I do not think that would be a comforting position for any country, because then that country would be in the position of being faced with the choice of accepting something unsatisfactory to it or risking the whole enterprise by withdrawal.

We would be, I am sure, subject to very serious and legitimate criticism at home if we should return, having agreed in advance that a document, the contents of which are as yet unknown, should supersede the fundamental provisions of the General Agreement, on the lines of which we had taken drastic tariff action.

I am not particularly troubled by the possibility that not having provision for automatic supersession would give the impression that we are presenting the other Delegates at Havana with a fait accompli. What we would, in effect, be saying to them is that if they want our tariff concessions in their own right, or if they want concessions on new articles of which they are the principal suppliers, then they must accept certain basic commitments which we will have already accepted.

And I am not particularly troubled by the possibility that in some cases countries might be governed by two rules, because of course it is well known that every nation conducts its foreign intercourse under a great variety of rules: its arrangements with

one country are very much more strict than its relations with others, or with one group of countries than with another group of countries. That is nothing new in international economic affairs.

Therefore we feel that the present provision of Article XXVII, in which it is provided that a two-thirds vote is required for supersession of the Agreement by the Charter, is a desirable one. On the other hand, since it is probable that the Charter will supersede it - and all of us are going to make every effort to see that the Charter is that kind of document - and since it is our attitude, as the Australian paper so well puts it, that the Charter should supersede it unless there is strong reason to the contrary, we would feel it would be entirely appropriate so to draft our Agreement that that intention and spirit was made clear and express it in the way of saying that the relevant provisions of the Charter should supersede unless forcible objection were made by one-third of the signatories.

It may be said that is a mere difference of form and not of substance. Technically that is true, but emphasis is important in these matters and I think the emphasis is wholly different. It might further be provided that, if objection were so raised by one-third of the countries signatory to the Agreement, consultation should immediately take place to see what change or improvement in the Agreement should be made, or what other action should be taken.

To summarize what I have said: we are dealing here with the inclusion in a Tariff Agreement of certain fundamental provisions which are customarily included in such agreements and

which came up for consideration before this Conference because of the fact that they were customary in commercial agreements. To our minds the key provisions, and the ones which we feel are essential, are those providing for Most-Favoured-Nation treatment, national treatment, quantitative restrictions, non-discrimination in the operation of State monopolies, and then some clauses for consultation in the case of non-application of the standard general exceptions. These provisions are a sine qua non to tariff action by the United States.

We would suggest - and we could agree - that the Charter would supersede those provisions unless there were a substantial body of opinion to the contrary - one-third - in which case there should be consultation to determine future action, with nations having the right to withdraw if not satisfied.

CHAIRMAN: The Delegate of the United Kingdom.

Mr. R.J. SHACKLE (United Kingdom): Mr. Chairman, the position of my Delegation in this matter is generally similar to the position that the Canadian and United States Delegates have already outlined.

It is our view that there should be a Part II in this General Agreement, that it should contain certain essential provisions to balance and to safeguard the Tariff concessions.

At the same time we agree that very likely the present draft of Part II could be lightened by dropping some of the minor provisions which are at present in it. I am not sure that it could be cut down quite to the extent that Mr. Winthrop Brown suggested, but we certainly consider that some of the ballast could be thrown out.

A point we might consider at a later stage is whether some of the texts of the Articles could possibly be brought in by way of reference to the text of ^{the} Articles of the Charter which we have just passed. We agree that in due course Part II ought to be superseded by the Charter and in that I am not sure that I altogether agree with the opinion expressed by Mr. Winthrop Brown as to the simultaneous existence of two different multi-lateral codes. I do agree that the existence of two different multilateral codes might have certain definite conveniences and objections but I am not quite sure that the case of bilateral trade agreements is an exact parallel; but anyhow we do feel that in the absence of knowledge about what the eventual contents of the Charter are to be, a provision for supersession should

not be purely automatic; there ought to be some kind of provision by which parties to the General Agreement can take stock of the general situation before supersession by the Charter takes place. Of course, there are a variety of ways by which that result could be achieved, but it seems to us the suggestion that the Charter shall supersede Part II of the Agreement unless one-third of the Parties to the General Agreement object is probably a good way of doing it. If one-third of the parties objected, then all the parties would meet to consider the situation and what steps should be taken to meet it.

That in brief represents our views.

Thank you, Mr. Chairman.

CHAIRMAN: The Delegate of France.

M. Pierre BARADUC (France) (Interpretation): Mr. Chairman, the position of the French Delegation in this problem is very similar to that expressed by the Delegate for the United Kingdom.

We knew the great interest which some Governments, such as the Governments of Canada and the United States, attach to having Part II included in the General Agreement and we accepted therefore this Part II in principle. Our Constitution puts us in the fortunate position that we are able to decide that this Agreement will enter provisionally into force, but at present I am not in a position to know what the final position of my Government will be in case an essential eventuality occurs, and this eventuality is the following:

My Government is prepared, as I said, to sign the present text of Part II subject to some modification of details, but if we were to learn at a later date that a large part of the Governments here represented had refused to adhere to that Agreement, what then would be the position of my Government I cannot say now.

Therefore I consider that we should make all possible efforts to have a text which should be acceptable - I would not say by all of us here - but by a large part, a very large part, at least, of the Governments represented. That is all I have to say for now, Mr. Chairman.

Mr. J. P. D. JOHNSEN (New Zealand): Mr. Chairman, I do not think it is disputed that when a country enters into a Trade Agreement with another country it is required that it should contain provisions necessary to safeguard any Tariff concessions made or obligations undertaken. I think the point at issue here, however, is just one of timing. The question is whether or not, pending the outcome of the World Conference from which we hope a Charter for World Trade will emerge on which to pattern trade relations, we should attempt to include in the Trade Agreement provisions which might not ultimately be adopted.

According to the programme that has been worked out, I think that even provisional application of the Agreement does not take place until 1st January next year. We are not sure, of course, when the Charter will come into force, but we are hoping that it will not be too long after that time. I doubt very much whether, under existing conditions, the inclusion of Part II in the Agreement would affect trade in any degree at all over that period.

One difficulty that I see in connection with this matter is that, as has already been mentioned by some Delegates, it is a fact that if a Government accepts, even tentatively, an Agreement containing certain provisions, there is, more or less, a fait accompli. Now, there is a possibility that if we attempted to put into this Trade Agreement certain provisions embodying principles to which Governments could not subscribe, those Governments would be confronted with difficulty in placing such Agreements before their Parliaments for ratification. I think that is something which we have got to take into consideration.

For that reason, if, as I previously suggested, the inclusion of Part II is really going to have no practical effect in the meantime, I think that it would be more practicable and more acceptable perhaps to quite a number of countries if we included in the meantime a minimum of provisions necessary to safeguard Tariff concessions and then considered, when the Trade Charter emerged, what general provisions might be included in the Agreement. At that time it would be a matter for the determination of each country whether or not it could accept those provisions.

Thank you.

CHAIRMAN: The Delegate of China.

H.E. Mr. Wunsz KING (China): Mr. Chairman, for the time being I shall confine my remarks to point 5. As regards this point, the position of the Chinese Delegation is quite similar to that of Norway. As I pointed out at one of the previous meetings, the Chinese Delegation is also in favour of the deletion of Part II.

I do not have to repeat all those arguments; but I would like to point out that inasmuch as the full Charter is subject to review at the World Conference, and inasmuch as, especially, a number of Delegations have made reservations to a large number of Articles, some of which would, according to this present text, be included in the Tariff Agreement, we would be prejudicing the position of those Delegations at the World Conference if we were to accept Part II and incorporate precisely those Articles in the document. In that case, we would be introducing into the Agreement an element of uncertainty which I think is very undesirable.

I entirely agree with Mr. Shackle and some of the other Delegates in questioning the wisdom of the simultaneous application in the not distant future of two different Charters or codes, and it is precisely for this reason that we would choose not to include those controversial Articles in the Agreement, and, on the contrary, we would choose to wait until the outcome of the World Conference is known.

The United States Delegate has referred to a number of provisions which, in his opinion, would be essential for the purpose of safeguarding the tariff concessions. I am not quarrelling with anybody on that point. I, for my part, should

also think that once the tariff concessions are agreed to, they should be safeguarded. But amongst the provisions to which the United States Delegate has referred, it seems to me he has referred to the Article on the question of national treatment in matters of internal taxation and regulations, and I wish to point out that it is precisely on this Article that (if I remember correctly) there are no less than six or seven reservations.

Now, I really wonder: how could we sign an Agreement which includes those Articles on which we have made so many reservations? We would be put in a very embarrassing position. We would be between two fires if we should be called upon to sign something which we have not accepted, and, on the other hand, if we cannot accept those provisions we are prevented from signing the document altogether.

It seems to me, therefore, that it is not a question of principle whether Part II should appear or should not appear in the document: it is a practical question, and we should approach that question in a practical manner. It is in this sense that I would venture to make two alternative suggestions. The first is that Part II might remain in the document, but its acceptance should be made optional - that is to say, not all of us are required to accept Part II. It goes without saying that if we do not assume obligations under Part II we certainly do not expect to obtain the benefits arising therefrom. Another suggestion would be that if most of the Delegations feel very keen on the inclusion of Part II, then we should examine Part II very carefully, and pick out those provisions which really have a direct bearing on the question of safeguarding

the tariff concessions, - in other words, only those provisions which are absolutely essential for the purpose of safeguarding and protecting those concessions. For example, I would pick out the provisions in regard to formalities, marks of origin, publication and administration of trade regulations, and possibly also the provision relating to the question of valuation; and as to all other Articles which are not absolutely essential, or which have no direct bearing on the question of safeguarding tariff concessions, it would be better to delete them.

Now, may I be allowed to come back to the Article on internal taxation again? As to that Article, as I have pointed out, there are perhaps no less than six or seven reservations, and the Chinese Delegation is proud of having introduced at least two reservations to that Article. If it is deemed to be essential that this Article, which is now Article III on page 18, should be included in Part II of this document, I would suggest that we might retain the first essentials: "The products of any contracting party imported into the territory of any other contracting party shall be exempt from internal taxes and other internal charges of any kind higher than those applied directly or indirectly to like products of national origin". In my opinion, the inclusion of that sentence alone should be sufficient to serve the purpose of safeguarding the tariff concessions and all the rest should go out.

Mr. Chairman, I am suggesting these two alternative solutions in order to meet the viewpoints of all the Delegations, and in order to make it possible for those Delegations which have made reservations on so many Articles to be able to sign this very important document.

CHAIRMAN: The Delegate of Belgium.

M. L. FORTHOMME (Belgium): Mr. Chairman, it seems to me that the question of keeping Part II in the Agreement or not depends on whether Part II will be superseded automatically by the Charter or not.

We find it already rather difficult to accept the Agreement as it stands with Part II composed of texts which give us grave doubts, especially those relating to quantitative restrictions, as we are not quite sure whether those provisions as they stand in the Charter really represent a protection for the tariff concessions we shall make.

At the beginning of these negotiations, we had thought that one of the advantages of the negotiations in Geneva would have been that the countries represented here might at least set up between themselves a more liberal system of trading than the one that might be foreseen by the definitive Charter of Havana. This more liberal system of trading would not necessarily be in contradiction with the Charter, but, taking opportunity from the provisions of this Charter itself, might have established something more wide and enable trade to develop. In order that this should come about, the Agreement would have to have, first of all, an independent existence from the Charter, and the provisions of the Agreement should not be substituted automatically by the Charter. Well, it seems that ideas here have gone considerably away from that original conception and that, if we have not quite accepted the idea of automatic supersession yet, we are bordering on the edge of it. The American proposition for an amendment to Article 27 is very much in that line, because evidently if we are going to have supersession, unless one-third of

the Members opposes supersession, there is a very great chance that this is equivalent to automatic supersession.

Therefore, we have to think now in terms of the Charter superseding automatically the provisions of Part II. Well, the first thing that will happen is that those who are not satisfied with the Charter will be obliged to withdraw from the General Agreement, and this brings about certain difficulties.

One difficulty is that certain countries, which have shown willingness here in Geneva to pay and make sacrifices in order to gain certain advantages, will have to give them up or else they will have to swallow a Charter which they do not like. There is also another thing - there might be countries who are quite willing to accept the Charter as a sort of basic document for the constitution of the International Trade Organization, but who would not consider the Charter as a sufficient basis and protection for the tariff concessions made here in Geneva. Well, they would have to get out of the Agreement even though they would remain part of the International Trade Organization because they have accepted the Charter, and therefore we find them in the status of inferior Members of the International Trade Organization because they are excluded from the Tariff Committee. The only way that they could get into it would seem to be either that they would be allowed to withdraw a certain number of concessions, which they had made in Geneva, until they thought that the concessions they were making were equivalent to the field covered by the Charter, or else they would have to be allowed to wipe out all trade and negotiations in Geneva and be considered as new Members of the International Trade Organization and re-negotiate altogether following the procedure for new Members joining the International Trade Organization, and acceding to the

Tariff Committee. Of course, the question is: would negotiations be considered satisfactory if they did not give concessions comparable to the ones they would have been willing to give on the basis of conditions obtaining in Geneva?

The result of all this is that I am inclined to think that it where is very little advantage in putting the Tariff Agreement into force provisionally before we know the results of the Havana Conference.

On the other hand, I do realise that it may be difficult to wait as long as that and to keep the concessions secret. Therefore, there might be an advantage in putting the Agreement into force provisionally, but then I do believe that it ought to be put into force on a very provisional basis. I mean by that that Part II ought to be written in such a way as to be clearly transitory and to be replaced by the Charter and also by the obligations in the matter of concessions on tariffs that go with this.

It seems to me that in order to modify Part II, to make it really transitory, we should start by deleting Articles 4 - 9 inclusive; then we should delete Articles 10 - 13 inclusive - those are the ones relating to quantitative restrictions, but replace them by an Article which could be made up of Article 20 of the Charter, paragraph 1, Article 21 of the Charter, paragraph 3, Article 22 of the Charter, paragraph 1, Article 23 of the Charter, paragraph 1(a). Those four provisions grouped together would be sufficient to cover the problems of the next twelve months. Then, I would further suggest that we delete Articles 14 - 17, delete Article 19 and delete Article 21. Finally, I would suggest that Article 1 be transferred to Part II. The different provisions and safeguards that are in the Articles which it is proposed to delete could be

sufficiently provided for by the general engagement we have in the protocol to observe the principles of the Draft Charter until such time as the definitive Charter comes into force. In this way, I think that provisional application would not prejudice in any way the possibility for each country to adapt itself to any basic change in conditions resulting from the definitive Charter.

CHAIRMAN: The Delegate of the Netherlands.

DR. A.B. SPEEKENBRINK (Netherlands): Mr. Chairman, I have already indicated that my Delegation belongs to those Delegations which think that an Agreement without certain safeguards to protect tariff concessions made would be very incomplete. However, I have also indicated that I have an open mind with regard to this question, and I think that I am of the same opinion as my Belgian colleague, that is, that we should study carefully what should go into Part II. I might, however, add that I have had no chance to really study his own proposal, and so I have an open mind on that too.

I do not wish to add to all the arguments just made here around this table and to repeat all these arguments, but I would only draw your attention to one fact. I have noticed that when we discuss this thing we are always in a very optimistic mood and we always think that when we mention the magic word "Havana" our troubles are over, and that when we have met and sat round the table there for a month or two months we may have a Charter to supersede certain stipulations of our General Agreement on Tariffs and Trade. Now, you might call me a cautious Dutchman, ^{but} if I say what is in my mind, that is, that there will be fifty-two, or even more Delegations there, most of whom have not studied the Charter properly at all - notwithstanding the fact that we have sent them all the documents

(may be, just because we have sent them all the documents!), you will see why I get a little worried, and when some people ask me what will be the length of the Havana Conference, I say: "If it is going to be a success it will last for at least four months, and if it lasts only six weeks it may fail or else we will have another Conference at the end of the year". Again, I might be pessimistic here, but I think we ought to keep that in mind when we discuss this thing.

It might not be the case at all that in a few months we will have Articles available to supersede Part II of this General Agreement, and then when certain countries - and I see we belong to them - think it necessary that we should have certain Articles in the General Agreement on Tariffs and Trade to safeguard the concessions made - and a great number of Delegations are of the opinion that it is important to continue the work, and to bring it to a close here in Geneva, and to give provisional execution to the tariff reductions here in Geneva - then I think we must turn our minds very much to the fact that it might take a relatively long time before we really have the International Trade Organization working, and before we really have the Articles in their proper form. Therefore, I would simply ask you to give that special attention when we discuss what should, and what should not, come into Part II of the Agreement.

CHAIRMAN: Are there any other speakers?

The Delegate of India.

Mr. B.N.ADAKAR (India): Mr. Chairman, as we stated on another occasion, India is not inclined to accept the suggestion that Part II of the Agreement should be automatically superseded by the Charter. That does involve signing a blank cheque and we therefore contend that if any country signs the General Agreement they should not be compelled to accept any change in that Agreement except by their consent.

That being the position, we have throughout urged that the question of superseding Part II of the Agreement by the corresponding provisions in the Draft Charter should not arise unless and until all Members who have signed the General Agreement join the ITO. If any Member does not accept the ITO Charter, then any amendment to Part II of the General Agreement should be carried out only as a process of amendment and, as provided in the relevant Article, such amendment should apply to any Member only if he accepts it.

Having said that, we would like to add that if it is regarded as inconvenient that any country which has signed the General Agreement should be permitted to keep out of the ITO, then provision should be made that such a Member which does not find itself able to accept the ITO Charter should be permitted to withdraw from the Agreement.

We have said on other occasions that certain provisions at present included in the draft of the General Agreement are essential. Among them we mentioned Article 14 - the

old Article 14 - which provides for Most-Favoured-Nation treatment. But as regards the previous provisions included in Part II, we share the doubts expressed by some of the Delegations here. It has been argued that the provisions of Part II are essential for safeguarding the tariff concessions. It has been argued further that they are provisions which are customarily included - at least some of them - in trade agreements of the normal type.

If the General Agreement does not consist merely of tariff concessions, but consists of a great deal more, and if these additional provisions then subsequently turn out to be different from the provisions of the Draft Charter, a very anomalous position will arise. The signatories to the General Agreement will have to continue to extend the tariff concessions they have given under the General Agreement to those new Members of the ITO who are prepared to make tariff concessions which are comparable in scope and effect to those made by the original signatories to the General Agreement but who are not prepared to accept anything more than the provisions of the Draft Charter.

If the corresponding provisions of the General Agreement turn out to be tighter than the provisions ultimately adopted for the Draft Charter, then there will be certain Members who may be prepared to make, along with the acceptance of the provisions of the Draft Charter, tariff concessions which are comparable in scope and effect to those made by the original signatories to the General Agreement. Then, under the terms of the Draft Charter, the original signatories to the General Agreement will have to extend even to such Members the benefits they have exchanged among themselves. That is the spirit of the Most-Favoured-Nation clause.

If they will not extend those tariff concessions unless the new Members agree to accept the more liberal provisions embodied in the General Agreement, that will be violation of the spirit of the Most-Favoured-Nation clause. Secondly, it would amount to a small group of countries setting up a nucleus which will control the rest, and that is again a very unpleasant situation.

If, on the other hand, they agree to this position in which they have to extend tariff concessions granted under the General Agreement even to those Members who do not accept the general provisions of the General Agreement but accept somewhat less liberal provisions perhaps embodied in the ITO Charter - if they are prepared to accept that position, does not that contradict the statement which is made here?

If those provisions are regarded as absolutely essential for safeguarding the tariff concessions, then nothing less than those provisions would be acceptable to the countries which maintain that position. That would lead to the consequence that they would refuse to extend the benefits of the concessions they have given under the General Agreement to countries which do not accept the existing provisions.

It is because the General Agreement and the rest of the Charter are linked in this way that we consider the problems which have been raised are problems which will not arise if the provisions of Part II could be separated from the provisions eventually adopted for the Draft Charter.

The only way in which that can be resolved is either by deleting Part II and substituting it by a general provision, which could be a minimum provision which requires Members to take

no measure, whether in the form of restrictions or any other form which would tend to nullify the benefits of the tariff concessions, or, alternatively, I suggest that the acceptance of Part II could be made optional for the Members.

Surely we have to consider two further factors in this connection. It is not intended that a very long period should elapse between the General Agreement and the acceptance of the Draft Charter. These general provisions are intended to cover only a short period.

Secondly, we have to consider the many countries which may leave acceptance or even signature of the General Agreement until after the World Conference. India does not expect to be among those countries. If India signs the General Agreement she will be in a position to give provisional acceptance to that Agreement at the time of the simultaneous publication. But we must remember the fact that there may be a large number of countries which may delay the acceptance until a considerable time has elapsed after the end of the World Conference. Therefore the inclusion of Part II loses part of its significance,

Thirdly, whilst it is true that some provision must be made whereby Members may not nullify the tariff concessions given to them by means of quantitative restrictions, etc., is it not true that the provisions included in Part II go beyond that value of They are not strictly related to safeguarding the/particular tariff concessions we have provided for in the General Agreement. But the wider issues of commercial policy are certainly consistent with the promotion of world trade.

Can we not defer the final adoption of this Part II until the matter has been thoroughly threshed out at the World Conference? If that alternative is adopted, then there will be no conflict between the General Agreement and the Charter and I believe no

difficulties will arise by requiring all future Members of the ITO to subscribe to the General Agreement and we shall have preserved the general spirit adopted at the beginning, that all Members of the ITO shall make concessions which are comparable in scope and effect to those made by the original signatories to the General Agreement.

The principle is sound, but when we extend that same principle to cover not merely tariff concessions but a great many other things, we find ourselves in a position of anomaly. I would therefore suggest that we should considerably restrict the scope of Part II, or, preferably, delete Part II altogether. If that is not possible, substitute it by a minimum provision and make acceptance of Part II optional.

I would not like to be misunderstood. This is not due to any objections or reservations which India may have on Part II. India has, I think, only one reservation on Part II at present. Therefore our objection to the difficulties we have pointed out in making Part II an integral part of the General Agreement do not arise from any difficulty on our part in accepting Part II, or any desire on our part to see particular parts of Part II excluded; it is due entirely to mechanical difficulties of procedure which we apprehend.

CHAIRMAN: The Delegate of the United States.

Mr. WINTHROP BROWN (United States): Mr. Chairman, one of the major things that has been brought out in this discussion is the concern of certain countries lest there be two different sets of rules in effect governing the same subject matter. I wonder if my suggestion which I made earlier does not really meet that point? Because, as I put it forward, it would mean that we would accept certain commitments in this General Agreement and that, if the Charter was satisfactory, that Charter would supersede the Agreement; that would be what we would have accepted to have happen and there would not be two sets of rules.

If, however, a third of the countries represented felt that the provisions of the Charter were, unfortunately, unsatisfactory, then they would object to the supersession and there would be consultation between the signatory members to see what we should do about it. At that consultation we should be talking about a known fact; in other words, the difference between the Charter provisions and the Trade Agreement provisions. We do not know now that there are going to be any; and we hope there won't be anything substantial, but, since we do not know, we are talking about a great Unknown, and it seems to me the suggestion which I put forward earlier provides a practical way of meeting the problem as it arises, if it arises.

CHAIRMAN: Are there any other speakers?

I think we have now exhausted the debate on point 5 of our agenda. I think this discussion has served a useful purpose in bringing out the different points of view. It would seem that the majority of the Delegations represented in the Committee are in favour of the inclusion of Part II in the General Agreement; on the other hand, other Delegations, representing countries who

account for a considerable part of the trade represented at the Tariff Agreement Committee, attach great importance to the inclusion of certain Articles in Part II in order to protect the Tariff concessions.

A number of Delegations have expressed the view that certain Articles which are now included in Part II could be omitted, and I would suggest that when next we take up the Agreement, Article by Article, as I propose to suggest at the conclusion of this debate on paper W/301, we can then examine the various Articles in Part II one by one and that will enable us to get a clear view as to which Articles should be retained and which Articles should not be retained.

A number of Members of the Committee, in speaking on Item 5 of the Agenda, have also touched in Item 6 which is the effect on the Charter of the entry into force of the General Agreement. This really relates to paragraph 1 of Article XXVII of the Trade Agreement. A number of views have been expressed with regard to this particular aspect of the General Agreement. The United States Delegation have suggested a modified form of paragraph 1 of Article XXVII which will later on be considered when we come to deal with that Article in the course of our going through the draft General Agreement Article by Article. Before, however, leaving item 6 I would like to know if there are any Members of the Committee who would like to discuss this particular item on our agenda further. If not, we could pass on to item 7, but I do not want to deprive any Member of the Committee of an opportunity of expressing any particular views his Delegation may have on item 6.

The Delegate of Chile.

M. F. GARCIA OLDINI (Chile) (Interpretation): Mr. Chairman, I do not want to speak on paragraph 6 or 7 of our agenda, but merely on what you have just stated. If I understood correctly, you have suggested that next week we shall consider the Agreement Article by Article, which, in my opinion, presupposes that we accept this Agreement in principle and that we accept the insertion of the Articles in such Agreement.

There is, however, I believe, a preliminary question. It has been suggested here today to replace the text of the Agreement as a whole by a simple set of provisional Articles. It has also been suggested that we should eliminate some parts of the Agreement. Another suggestion was to, so to speak, leave the door open: that is to say to have a text the acceptance of which would not be compulsory for the Members. Other suggestions have also been made, and I think that all these suggestions should have priority over the discussion of the Agreement Article by Article. It is possible that during such discussion there may be some alteration or amendments proposed to these Articles, but this, in my opinion, is of secondary importance. The most important question is based, for instance, on the suggestion made by the Delegate of the United States, to replace the text of the Agreement as a whole by a set of general provisions safeguarding the concessions made or obtained here in Geneva. I believe this should be the procedure to be followed, subject to your agreement.

CHAIRMAN: I am not wedded to any particular form of procedure, except that I am anxious that we should make progress as rapidly as possible. Members of the Committee will recall that there have been several suggestions during our general debate that we should get on to considering texts. We had considered that this general debate would bring out the various points of view on these matters of principle to which the Delegate of Chile has just referred; in fact that has been the object of the general debate and the object of having this paper W/301 prepared in advance of consideration of the Charter Article by Article. But it now seems that we have pretty well exhausted the general debate and that the only way in which we can make progress is, bearing in mind the conclusions that have been

reached in this general debate, to consider the Articles one by one.

I do not think that necessarily implies acceptance of the Agreement by any particular Delegation. It simply is a means of ascertaining the views of each Delegation on each Article. For instance, that would be the only way in which we could find out how the suggestion of the United States Delegation for the elimination of certain Articles in Part II could be brought about. It is only by considering those Articles that we can see what importance is attached to each Article by the different Delegations. If we find that there is an Article to which no Delegation attaches any great importance, we can readily drop it. But I cannot see how we could decide in principle on the United States suggestion that certain Articles be dropped until we examine the Articles to see which ones the various Delegations hold are important and which they view as unimportant.

M. F. Garcia OLDINI (Chile) (Interpretation): If it is wished, Mr. Chairman, that this historic procedure should be followed, I will not insist; but I would ask that, if possible, the text of the suggestions made by the Delegates be circulated to all Delegates before we begin discussing Article by Article.

CHAIRMAN: That had been my intention, and I was going to announce at the close of this general debate that the Secretariat would produce before our next meeting on Monday next (if we do not meet tomorrow) the following documents: an analysis of the agreement reached to date by the Tariff Agreement Committee on the points dealt with in our general discussion. That would set forth the measure of agreement that had been reached and the points on which it had not been possible to reach agreement.

The Secretariat have also, at my request, been studying various Final Acts that have been signed in connection with various international conventions, and they are preparing a draft of the Final Act which will facilitate our study of that question when we come to it. They are also preparing a new text of the Draft Agreement incorporating the latest text of the Charter. They are not touching any question of substance - they are simply bringing the draft prepared by the Tariff Negotiation Working Party up-to-date by including the new texts of each relevant Article as approved by the Preparatory Committee. Those documents should be ready for circulation by Monday next.

With regard to the various suggestions which have been made by Delegates such as, for instance, the proposal of the United States Delegation today regarding a modified form of paragraph 1 of Article XXVII, I would suggest that if the United States Delegation agree, they should submit that proposal in the form of

an amendment to paragraph 1 of Article XXVII.

The United States Delegation, at our discussion yesterday, also suggested that provisional application should be covered by a Protocol rather than by an Article. Perhaps the United States Delegation would be so kind as to also submit a draft Protocol in the form of a proposal; and it is open to any other Delegations who have made suggestions in this general debate to also submit proposals in the form either of amendments to the Articles or in the nature of a revised text.

In that way, we would have something to work on, and we could start with either Article I or Part III, if the Delegations would so prefer, and go through the Agreement Article by Article. I should think the logical course now would be, if we have the definitive text of the Preparatory Committee, to start with Article I and go through to Article XXXI.

Are there any comments on the proposed procedure?

H.E. Dr. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I am very obliged to you for the initiative, because it was exactly what I wanted to propose. I thought that it might be of some use if I brought before this Committee a further idea which may be of some interest, and that is the following: We are faced here with, approximately, two groups of countries. One group consists of countries which are ready to accord the tariff concessions on light conditions. The second group of countries requests heavy conditions in order to accord the concessions.

I do not know if, in the end, we will be able to overcome this difficulty; but if not, then there are only two ways, to my mind, in which to finish our work: either those countries

which impose no conditions for putting into force the tariff concessions would do it, as I said once before, by means of the existing bilateral commercial treaties, extending the benefits to all other countries who have ~~Most-Favoured-Nation~~ treatment, or it would be necessary to have double-list Schedules: one list to go into force immediately among those countries which were ready to give the concessions on light conditions. The second Schedule would not enter into force unless the countries agreed later. There would, therefore, be double Schedules, and it would be left open to any country to pass from the light Schedule to the heavy Schedule.

CHAIRMAN: I thank the Delegate of Czechoslovakia for his suggestion. I think we will have an opportunity during the course of our discussions of the Articles to return to this suggestion and elaborate it further.

Are there any other comments on the procedure? If not, we can resume the general discussion. I would like to know if any other Delegates wish to speak on Item 6, in addition to what has already been said during our discussion of Item 5.

M. Hassan JABBARA (Syria) (Interpretation): Mr. Chairman, I would like to give some explanation as to our position, referred to in sub-paragraph (vi). You will see that we are agreeable in principle to the inclusion in the Agreement of Part II, provided that Part II shall be automatically replaced by the equivalent provisions of the Charter.

We never thought that the General Agreement could be independent or different from the Charter. We always understood that the aim of the meeting in Geneva would be only to study the Draft Charter, which would in turn become the world's trade code.

During this study of the Charter, the question of the tariff negotiations arose merely, in our opinion, to supplement the benefactory effect of this code, and that is why we found it quite natural, and even necessary, that the General Agreement, which is a direct consequence of the Charter, should be superseded or replaced by the corresponding provisions of that Charter. We never thought for a minute that we might have two codes dealing with the same question in a different way - in other words, two different applications of a similar question.

We think, therefore, that between the provisions of the Charter and the provisions of the General Agreement there should be no difference, and when the question of preferential arrangements was mentioned, we wondered if that were put in a different way in the Charter from the Agreement, what would be the position of a country signing the Charter and putting the Agreement provisionally into force before the Charter itself comes into force.

We are all the more interested in that point as we have ourselves made a reservation on the question of preferential arrangements between neighbouring countries, and if tomorrow our point of view is adopted in the final Charter, ^{and} our suggestion of compromise giving a partial satisfaction. were to be adopted, what would our situation be then if we had signed the Agreement which would go against the reservation we made to the Charter?

I believe that the difficulty we meet there in that respect is due to our desire to apply a law, which is the Agreement, and say that it results from another law, which itself does not yet exist.

We all agree, I think, that there should be no fundamental difference between the Charter and the Agreement, but there might be contradictions between these two documents, and I wonder what would be the situation in the parliaments in the various countries concerned if they have to study and to approve two different texts. That is why I do not see any other alternative than to say that the provisions of the Agreement will be automatically replaced by the corresponding provisions of the Charter.

CHAIRMAN: Are there any other comments on Item 3 of the Agenda.

If not, we shall now pass on to point 7 - "Implementation of Charter provisions in addition to those appearing in Part II of the Agreement". This really relates to the Protocol.

There will be a further opportunity of discussing this question when we come to take up the Protocol in detail in relation to the draft Agreement.

The Norwegian Delegation has made some observations. They consider that the Protocol should be deleted, whilst certain of its clauses should be transferred to the Preamble, if necessary.

The Czechoslovak Delegation proposes the deletion of the undertaking in the Protocol to observe to the fullest extent of the authority of each Government.

The Australian Delegation wishes the Schedules and the Charter to be dealt with and adopted simultaneously. It would prefer the Agreement to contain all the Charter in its present form, on the understanding that when the Charter is finally approved, it will replace the General Articles of the Agreement.

The Syrian-Lebanese Delegation is agreeable to the terms of the Protocol, provided it will not require the application on their part of principles of the Charter to which they have lodged reservations.

Members of the Committee will see that these various points have already been touched upon in the course of the general debate, but if there any additional remarks which any Member of the Committee wishes to make regarding Item 7, I should be glad if they would indicate their desire to speak on this occasion.

Do any Members of the Committee wish to speak?

DR. H.C. COOMBS (Australia): Mr. Chairman, I think I should make a short explanation of the statement we have made here. It is true that we have repeated many times that the proper time for this question to be dealt with would have been for the Charter and Tariff Reductions to be considered simultaneously. We recognise, however, that that is impracticable, so that the suggestion here is not a proposal.

The Tariff Working Committee did attempt to meet our point by the inclusion of the Protocol, but I must confess some doubts as to the adequacy of the Protocol to meet our point. An undertaking to carry out the principles of the Charter can, as I see it, mean everything or nothing. If it means everything, then there is no

need for Part II - in fact, there is no need for Article 1 and there is no need for any of these particular Articles - because we would be undertaking to observe the Draft Charter until we knew what the final Charter was. If that is what it meant, that would be a satisfactory arrangement to Australia, but we understand that that is not practicable - countries are not prepared to give that undertaking now in any sense, which means anything, and consequently I am rather forced to the conclusion that it means very little.

Therefore, I have some sympathy with both the Norwegian and the Czechoslovak Delegations in wanting to have eliminated a provision, the precise implications of which are so exceedingly uncertain.

However, Mr. Chairman, it is a matter to which we would like to give some more thought, and I would therefore like an opportunity to discuss this matter again when we come to consider the Protocol itself. In the meantime, it would greatly assist me if Delegates could inform me how they think their governments would interpret the undertakings to observe the principles of the Charter in the terms in which it is now embodied in the Protocol.

CHAIRMAN: The Delegate for Norway.

MR. J. MELANDER (Norway): Mr. Chairman, we feel that the Protocol as drafted here falls into two categories. The first three paragraphs mean nothing, and consequently they could be transferred to the Preamble. The last paragraph, on the other hand, we interpret in such a way that it means all. In other words, it is an obligation which is equivalent to the obligations undertaken under Part II. The only limitation is that the last paragraph of the Protocol refers "to the fullest extent of their authority". That is the only limitation.

The reason why we have proposed that the Protocol ought partly to be deleted and partly to be removed to the Preamble is that the first three paragraphs ought to go into the Preamble because they mean nothing, and the last paragraph ought to be deleted because it ought to be treated in the same way as Part II.

CHAIRMAN: Does any other Member of the Committee wish to speak on this subject?

MR. R.J. SHICOLE (United Kingdom): Mr. Chairman, it is with the utmost diffidence that I say anything on any question which raises doubt in Dr. Coombs' mind.

I hardly dare to discuss such a difficult question, but the way it has always appeared to me is that, after all, things are not necessarily either absolutely black or absolutely white. They do not necessarily mean everything or nothing - there surely is an intermediate field in the discussions of Governments where there is a measure of administrative discretion. Not everything that a Government does is precisely determined by law, and surely within their day-to-day administrative discussions there exists scope for some intermediate expression of opinion. Well, if that is so, it does mean, does it not, that we think that there is a certain possibility of making it mean something? That is what I have always conceived to be the intention of this.

Perhaps, in the case of my Government, the difficulties are much less than they might be in the case of another Government, because as far as I know there is nothing in this Draft Charter which would require a modification by law. Therefore, no doubt it would be much easier for us than for certain other Governments, but I should have thought that every Government would allow for a certain

amount of administrative flexibility, and within those limits this might have some meaning.

CHAIRMAN: Are there any other speakers?

It seems that we have exhausted this subject, and we have now come to the end of our general debate.

The Secretariat will require time to prepare the various documents which I have referred to in this meeting, and it will not be possible to have these documents ready for circulation tomorrow - and in any case, Delegations will want some time to study them - so I propose that our next meeting be held on Monday at 2.30, and the Secretariat will do their best to have these documents circulated as much in advance of the meeting as possible.

MR. J.P.D. JOHNSEN (New Zealand): Mr. Chairman, is it possible to give any indication of the programme of meetings next week? Is it intended to hold the meetings in the afternoon of each day?

CHAIRMAN: We think that the afternoon is the best time to meet, and therefore we were proposing to hold a meeting every day next week, if that is found to be necessary.

Any other comments?

The meeting is adjourned.

The meeting rose at 5.50 p.m.